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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

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SANDRA K. HARRIS, CLERK
BY: 

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6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

7 **IN AND FOR THE COUNTY OF YAVAPAI**

8 **STATE OF ARIZONA,**

9 Plaintiff,

10 vs.

11 **STEVEN CARROLL DEMOCKER,**

12 Defendant.

CAUSE NO. P1300CR201001325

**RESPONSE TO REQUEST FOR
DEPOSITION OF MIKE SECHEZ**

Assigned to Hon. Warren R. Darrow
Division PTB

ORAL ARGUMENT REQUESTED

13
14 The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and
15 her deputy undersigned, hereby responds to Defendant's Request for Deposition of Mike Sechez.
16 This motion is supported by the attached Memorandum of Points and Authorities which is
17 attached hereto and incorporated herein.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 The request for a deposition in a criminal case can only be granted under limited
20 circumstances. Rule 15.3(a), Arizona Rules of Criminal Procedure, provides in pertinent part that
21 the court may in its discretion order the examination of any person upon oral deposition under the
22 following circumstances:

- 23
24 (1) A party shows that the person's testimony is material to the case and
25 that there is a substantial likelihood that the person will not be
26 available at the time of trial, or
(2) A party shows that the person's testimony is material to the case or
necessary adequately to prepare a defense or investigate the offense,
that the person was not a witness at the preliminary hearing or at the

1 probable cause phase of the juvenile transfer hearing, and that the
2 person will not cooperate in granting a personal interview, or
3 (3) A witness is incarcerated for failure to give satisfactory security that
4 the witness will appear to testify at a trial or hearing.

5 None of these circumstances are present regarding the requested deposition of Investigator
6 Sechez. As Defendant concedes, Investigator Sechez has already submitted to a defense
7 interview. All relevant information noted in Defendant's motion was known to the defense at the
8 time of this interview. If new discovery has been presented to the defense since this interview,
9 the State would make Investigator Sechez available for another interview, upon a showing of
10 need.

11 The sole basis for the requested deposition is to allow defense counsel to question the
12 witness as to how that witness believes that the majority component of the DNA under the
13 victim's fingernail came from the person whose autopsy was performed just prior to the victim's
14 autopsy. Such a question clearly calls for speculation and is not an appropriate area of inquiry. If
15 the Court believes otherwise, the Court may order the State to set another interview of the
16 witness. A deposition, however, is clearly not warranted.

17 Since Investigator Sechez has already submitted to a personal interview, there is no basis
18 to order the requested deposition.
19

20 **RESPECTFULLY SUBMITTED** this 11 day of August, 2011.

21 **Sheila Sullivan Polk**
22 **YAVAPAI COUNTY ATTORNEY**

23 By: Steven A. Young
24 **Steven A. Young**
25 Deputy County Attorney
26

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COPY of the foregoing **Emailed** this
11th day of August, 2011, to:

Honorable Warren R. Darrow
Division 6
Yavapai County Superior Court
Via email to Diane Troxell: DTroxell@courts.az.gov

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